IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

**O R D E R**

S.B. CIVIL WRIT PETITION NO. 5514/2003
(Nitin Tiwari Vs. State of Rajasthan & Ors.)

Date of Order : 03/01/2007

**PRESENT**

**HON'BLE MR. JUSTICE H.R.PANWAR**

Mr. P.S.Rathore for the petitioner.
Mr. Rameshwar Dave, Dy. Govt. Advocate for respondents.

**BY THE COURT**:-

By the instant writ petition under Article 226 of the Constitution of India, the petitioner seeks a direction to cancel the interview held by the respondents on 03.9.2003 pursuant to Annex.-1 for the post of Physical Education Teacher and to hold fresh interview and to consider his candidature for the said post.

I have heard learned counsel for the parties.

The respondents advertised to fill up the post of Physical Education Teacher for the Academic Session 2003-04. The petitioner finding himself eligible for the post applied for the same. The interview was sought to be held on 3.9.2003 from 10.00 A.M. to 5.00 P.M. at Govt. Senior Secondary School, Chittorgarh. The petitioner was called vide interview letter dated 27.8.2003 which was received by the petitioner by registered

post on 3.9.2003 at 2.30 P.M. on the address mentioned on the envelope i.e. Kamlighat, District Rajsamand and therefore, according to learned counsel for the petitioner, it could not have been possible for the petitioner to reach Chittorgarh and appear before the interviewing authority and thus, the petitioner has been denied his consideration.

The interview letter Annex.1 dated 27.8.2003 was sent by the District Education Officer (Secondary), Chittorgarh to the present petitioner by a registered letter No. 3749 on 1.9.2003, which was received by the petitioner on 3.9.2003 which is evident from the endorsement made thereon that it was received on 3.9.2003 at 2.30 P.M. and duration of the interview was from 10.00 A.M. to 5.00 P.M. on the same day i.e. 3.9.2003.

A reply to the writ petition has been filed by the respondents. In para 3 of the reply, it has been averred that though as per the departmental direction, interview letters were prepared in compliance of the Circular dated 27.8.2003 but subsequent thereto new guidelines were issued by the Director vide Circular dated 28.8.2003 and amended priority list was prepared and accordingly the candidates were called for interview in conformity with the departmental guidelines issued vide Circulars dated 27.8.2003 and 28.8.2003 Annex.R-1 & R-2 respectively. An additional affidavit has been filed by the respondents stating the last percentage of the teachers Gr-III for

the year 2003-04 in general category as 77.59%, whereas the petitioner secured 77.99% marks.

Counsel for the petitioner has relied on two decisions of this Court in Miss Kiran Kumari Verma Vs. State of Rajasthan & Ors. 1996 (2) WLC (Raj.) 76 and in Surendra Kumar Vs. State of Rajasthan and Ors. 2005 (10) RDD 4289 (Raj.).

Learned counsel for the respondents submits that a writ petition filed by similarly situated person namely Kamal Sharma being S.B.Civil Writ Petition No. 5526/03 in the very matter came to be dismissed by this Court vide order dated 05.10.2006.

I have given my thoughtful consideration to the rival submissions made by the counsel for the parties.

It has not been disputed even by the petitioner that the advertisement Annex.1 dated 27.8.2003 in clear terms provides that those who have submitted the application forms are to appear between 10.00 A.M. to 5.00 P.M. at Govt. Senior Secondary School, Chittorgarh on 03.09.2003 along with their original testimonials i.e. Educational, Professional, Co-curricular activities, bonafide certificate etc. Thus, it was known to the petitioner that the petitioner is to appear in the interview on 03.09.2003 between 10.00 A.M. to 5.00 P.M. at Govt. Senior Secondary School, Chittorgarh and therefore, it cannot be said that the date of the interview was surprisingly made known to

the petitioner only on receipt of Annex.2 envelope containing interview call. Thus, it is clear that detailed instructions contained in advertisement Annex.1 it was very clearly stated that the date of interview for the post in the school for the boys and girls is 03.09.2003 as also the duration of the interview, place of the interview has also been mentioned. The purpose of interview was also disclosed that for the interview the candidate was required to bring with him or her the original documents for verification mentioned therein. It is also mentioned that no marks will be awarded because the purpose of interview was only to determine the merit on verification of the original testimonials i.e. the documents mentioned in the advertisement itself. In this view of the matter, the controversy involved in the instant case stands squarely covered by the decision of this Court in Kamal Sharma Vs. The State of Rajasthan (supra). The decision relied on by learned counsel for the petitioner turns on their own fats and therefore, are of no help.

In the circumstances, therefore, I do not find any merit in the writ petition and it is dismissed accordingly. No order as to cots.

**(H.R.PANWAR),J.**

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